



DAN MORALES  
ATTORNEY GENERAL

Office of the Attorney General  
State of Texas

April 25, 1991

Ms. Leah A. Curtis  
Assistant Criminal District Attorney  
Bexar County Justice Center  
300 Delorosa, Suite 5072  
San Antonio, Texas 78205-3030

OR91-214

Dear Ms. Curtis:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 11871.

The Bexar County Sheriff's Office received an open records request for "dispatch tapes of any and all conversations" and "all offense reports" relating to the shooting of a named deputy sheriff. You do not argue that the dispatch tapes are excepted from public disclosure under the Open Records Act, and this office has in fact previously held that such tapes are available to the public. *See, e.g.,* Open Records Letter OR89-063 (1989) (copy enclosed). Consequently, you must release the requested tapes at this time if you have not already done so.

With regard to the other requested materials, you state:

In the case of *Houston Chronicle Publishing Company. vs. City of Houston*, the Court of Appeals in Houston determined that section 3(a)(8) is critical and as such, does not allow the release of records covered by this exception. The Supreme Court has further recognized this privilege from disclosure of records dealing with law enforcement investigations in the case of *Hobson v. Moore*. [Citation omitted.]

Whether section 3(a)(8) applies to particular records depends on whether their release would "unduly interfere" with law enforcement or prosecution. Open Records Decision Nos. 434 (1986); 287 (1981). In *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976), the court of appeals provided a guideline as to the

types of information pertaining to pending criminal investigations that come under the protection of section 3(a)(8). *See also* Open Records Decision No. 127 (1976) (summary enclosed). Based on your representation that the investigation of the shooting is still pending, it is apparent that a majority of the information that you submitted to this office may be withheld at this time pursuant to section 3(a)(8), but the information listed as public in the summary of Open Records Decision No. 127 must be released.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-214.

Yours very truly,



Steve Aragon  
Assistant Attorney General  
Opinion Committee

RWP/lcd

Ref.: ID# 11871

Enclosures: Attachment  
OR89- 063  
Excerpt of Open Records Decision No. 127  
Submitted documents

cc: Dino Chiecchi  
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